

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 37190

STATE OF IDAHO,	)	2010 Unpublished Opinion No. 514
	)	
Plaintiff-Respondent,	)	Filed: June 18, 2010
	)	
v.	)	Stephen W. Kenyon, Clerk
	)	
BRIAN KEITH MENDOZA,	)	THIS IS AN UNPUBLISHED
	)	OPINION AND SHALL NOT
Defendant-Appellant.	)	BE CITED AS AUTHORITY
	)	

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Appeal from the District Court of the Fifth Judicial District, State of Idaho, Gooding County. Hon. John K. Butler, District Judge.

Order relinquishing jurisdiction and requiring execution of unified seven-year sentence with three-year determinate term for felony driving under the influence, affirmed.

Molly J. Huskey, State Appellate Public Defender; Mark J. Ackley, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Jessica M. Lorello, Deputy Attorney General, Boise, for respondent.

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Before GUTIERREZ, Judge; GRATTON, Judge;  
and MELANSON, Judge

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PER CURIAM

Brian Keith Mendoza pled guilty to felony driving under the influence, Idaho Code §§ 18-8004(1)(a), 18-8005(5). The district court imposed a unified seven-year sentence with a three-year determinate term. The court suspended the sentence and placed Mendoza on probation for four years. Subsequently, Mendoza admitted to violating several terms of his probation, and the district court consequently revoked probation and ordered execution of the original sentence, but retained jurisdiction. Approximately four months later, the district court relinquished jurisdiction. Mendoza appeals, asserting that the district court abused its discretion

by relinquishing jurisdiction and ordering execution of the underlying sentence without modification.

We note that the decision to place a defendant on probation or whether, instead, to relinquish jurisdiction over the defendant is a matter within the sound discretion of the district court and will not be overturned on appeal absent an abuse of that discretion. *State v. Hood*, 102 Idaho 711, 712, 639 P.2d 9, 10 (1981); *State v. Lee*, 117 Idaho 203, 205-06, 786 P.2d 594, 596-97 (Ct. App. 1990). The record in this case shows that the district court properly considered the information before it and determined that probation was not appropriate. We hold that Mendoza has failed to show that the district court abused its discretion, and we therefore affirm the order relinquishing jurisdiction.

The trial court, upon relinquishing jurisdiction, is authorized under Idaho Criminal Rule 35 to reduce the sentence. Sentencing is a matter for the trial court's discretion. Both our standard of review and the factors to be considered in evaluating the reasonableness of the sentence are well established and need not be repeated here. *See State v. Hernandez*, 121 Idaho 114, 117-18, 822 P.2d 1011, 1014-15 (Ct. App. 1991); *State v. Lopez*, 106 Idaho 447, 449-51, 680 P.2d 869, 871-73 (Ct. App. 1984); *State v. Toohill*, 103 Idaho 565, 568, 650 P.2d 707, 710 (Ct. App. 1982). When reviewing the length of a sentence, we consider the defendant's entire sentence. *State v. Oliver*, 144 Idaho 722, 726, 170 P.3d 387, 391 (2007).

Applying the foregoing standards, and having reviewed the record in this case, we cannot say that the district court abused its discretion either in relinquishing jurisdiction or in ordering execution of Mendoza's original sentence. Therefore, the order relinquishing jurisdiction and directing execution of Mendoza's underlying sentence, without modification, is affirmed.